

BILL ANALYSIS

Senate Research Center

S.B. 1441
By: Hinojosa
Natural Resources
4/11/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Irrigation districts in the Lower Rio Grande Valley have legal use of water from the Rio Grande River based on filings required by law and evidence of historical use by landowners within the general law districts.

As a result, irrigation districts hold legal title, and landowners hold equitable title in the water rights associated with land within the district. Because irrigation districts do not provide potable water, when lands within an irrigation district are subdivided for non-agricultural use, they are excluded from the district.

The irrigation district has a need to maintain an income stream from the retained legal title to the water rights, and the landowners have both an economical and an actual need to furnish the associate water right to the city or water supply corporation actually supplying the potable water to the subdivided area.

As proposed, S.B. 1441 clarifies the Water Code, by recognizing the rights of the irrigation district, the landowners and the potable water supplier by allowing the irrigation district to be compensated for providing untreated water intended for landowners' use to the municipal or corporate water supplier. The district has the right to estimate the cost of supplying untreated water to the city or corporate suppliers, and requires suppliers to have the right to appeal the district's computation of the proportionate amount of water rights that are associated with the land.

S.B. 1441 also authorizes the irrigation district to charge a just and reasonable amount for the water they supply to cities or corporate water suppliers, and authorizes the amount charge to be appealed to the Texas Commission on Environmental Quality by the city or water supply corporation that is requesting the water.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 49.314, Water Code, as follows:

Sec. 49.314. WATER ALLOCATIONS. (a) Authorizes a city or water supply corporation that serves the excluded land with a potable water supply, after the general law district (district) in a county within 30 miles of the Rio Grande and within 50 miles of the Laguna Madre adopts an order excluding property, whether such exclusion took place under specific codes or articles since its adoption or any subsequent amendment, or any other exclusion statute granting to a district the right to exclude land if such exclusion occurred after the effective date of such other exclusion statute, to petition the district to convert the proportionate irrigation water right previously associated with the excluded land from irrigation use to municipal use for the use and benefit of the city or water supply corporation. Requires the district to compute the proportionate amount of water rights that are associated with the land, and requires the district to proceed with appropriate administrative proceedings to convert the irrigation use to municipal use.

Requires the city or water supply corporation to have the right to appeal the district's computation of the proportionate amount of water rights that are associated with the land.

(b) Requires the district to provide to the city or water supply corporation with an estimate of the district's reasonable costs in proceeding with appropriate administrative proceedings to convert the irrigation use to municipal use and requires the amount of the estimate to be deposited with the district before the district is obligated to initiate the administrative proceedings. Deletes existing text regarding the city or water supply corporation paying the district for estimated expenses and attorneys fees incurred in the conversion proceeding.

(c) Requires the water, on approval of the conversion by the Texas Commission on Environmental Quality (TCEQ), to be supplied to the city or water supply corporation by the district, and authorizes the district to charge a just and reasonable amount for this supply. Prohibits the amount from being unreasonably preferential, prejudicial, or discriminatory, but requires the amount to be sufficient, equitable, and consistent for the supply of water based on the cost of the district's services. Authorizes the amount of the district's charge to be appealed to TCEQ by the city or water supply corporation.

SECTION 2. Effective date: September 1, 2005.